

**Draft Minutes
Delta Protection Commission Meeting
Thursday, March 22, 2001**

1. Call to Order.

The meeting was called to order at 6:35 p.m. by Chairman Patrick N. McCarty. Commissioners present were: Brean, Coglianese, Curry, Curtis, Ferguson, Gleason, Glover, Macaulay, Sanders, Shaffer, Thomson, van Loben Sels, and Wilson. Absent were: Cabaldon, Calone, McGowan, Mow, and Nottoli. [Banky Curtis was not sworn in and abstained from all votes by the Commission.]

2. Public Comment Period.

There were no public comments.

3. Minutes of Last Meeting.

On a motion by Commissioner Coglianese and a second by Commissioner Curry, the draft minutes were approved by voice vote. Commissioners absent from the January meeting abstained.

4. Chairman's Report.

Chairman McCarty noted the next meeting is scheduled for Thursday, May 24 at the Jean Harvie Community Center. He presented a plaque to former Vice Chair Mello, and thanked him for his dedication and service to the Commission. Chairman McCarty noted upcoming events including "Beyond the Drain", a fresh look at efforts to improve the management of agricultural drainage on Tuesday, March 27, 8:30 to 4:30 at Sacramento Convention Center and the Great Valley Center's Annual Conference in Sacramento on May 9 and 10. He announced the names of those who had volunteered to serve on Committees:

- **Budget and Finance:** Chairman McCarty, Calone, Shaffer, Sanders, Ferguson
- **CALFED:** Curry, Coglianese, Nottoli, Shaffer, Wilson
- **Legislation:** Gleason
- **Recreation:** Nottoli
- **GIS Oversight:** Sanders

5. Commissioner Comments/Announcements.

There were no comments or announcements.

6. Attorney General's Report.

Dan Siegel, Attorney General's Office, reported on a recent finding from the 9th Circuit Court of Appeal regarding the need to obtain a NPDES permit to use herbicide with an

EPA-approved label in a drainage ditch; the Court determined a NPDES permit is required because the ditch drains into the waters of the United States.

Commissioner Macaulay asked for more information about the applicability of the ruling.

7. Executive Director's Report.

Ms Aramburu reviewed the material in the mailing packet and the handouts. She noted the background reports are being reprinted and will also be available on the website. She said the regulations had been submitted, but somehow OAL had not received them. Staff will be resubmitting the regulations to OAL very soon. Ms Aramburu said a briefing was held for four new Commissioners, she met with Commissioner Curtis and will meet soon with Commissioner Glover. She said she has interviewed candidates for the Staff Services Analyst position. She distributed a memo that listed the meetings attended in the last two months.

The Commission discussed the memo from staff regarding the Legislative Subcommittee. The Commission agreed to appoint Commissioner Gleason as the legislation coordinator to work with staff and recommend actions to the full Commission.

Commissioner van Loben Sels asked that a running tally be added to the pending projects memo which lists the loss of agricultural acreage; Ms Aramburu agreed to prepare that information.

Commissioner Shaffer noted that a new environmental document has been released for the Prospect Island habitat project. Commissioner Wilson asked if the loss of agricultural land would be mitigated; Ms Aramburu said no, there has never been any mitigation proposed for the loss of agricultural land.

8. Update on CALFED Actions and Projects in the Delta

Dennis Majors, CALFED's Delta Projects Coordinator, briefed the Commission on the status of projects and programs in the Delta. Addressing the outline in the mailing packet, he said he proposes to have a draft of a Delta Implementation Plan for the Commission to review at the May meeting. The Implementation Plan will address all the CALFED programs in the Delta area in the first seven years of the CALFED Program. He suggested having a quarterly workshop to address the status of all projects in the Delta.

Commissioner van Loben Sels asked about the option of replacing the 0 to 8,000 cfs Delta Cross Channel with a 4,000 cfs screened facility; he asked if the existing facility can be screened to ensure that adequate water is moved from the Sacramento River to the Central Delta; Mr. Majors said that issue will be addressed at the end of the three-year study period.

Mr. Majors said he would accept comments on the outline for a week or so.

Commissioner Macaulay said he would like to see a detailed presentation on the recent findings on preliminary Delta Cross Channel studies; Mr. Majors said a date will be set and the Commissioners will be informed soon.

Commissioner Coglianese said she believes the regional forum will be a helpful format for communicating with the Delta community.

Perry Herrgesell, Department of Fish and Game, said he is working with other agencies to develop facilities to support the CALFED Science Program. He said the CALFED program will be based on collaboration and good science. He said much of the DFG staff, the staff of USGS, and others totaling about 500 persons will be moving to a new facility at U.C. Davis. He said he is especially excited about development of a Science Field Facility to be located at the Rio Vista waterfront.

Commissioner Coglianese said the City of Rio Vista is working with CALFED and the State and federal agencies planning for the Science field station. She said there is potential for environmental education.

Commissioner Curry asked if there might be a location for a boating instruction and safety center; Mr. Herrgesell said that would be a compatible project and suggested further discussion.

Commissioner Coglianese noted the City of Rio Vista is seeking funds for a new public dock and the USGS research vessel currently ties up at the City's existing dock.

Brad Burkholder, Department of Fish and Game, updated the Commission on a habitat restoration project on Canal Ranch under study in partnership with the landowners. He said a second phase, to survey the site and determine if the conceptual management plan will work, has recently been funded. The proposed project would retain agriculture and add some areas of habitat restoration. He said future management options include acquisition of easements or fee title of portions of the property.

Commissioner van Loben Sels asked if most of the site would be retained in wildlife friendly farming; Mr. Burkholder said yes, the strips of riparian and wetland vegetation would total approximately 500 acres.

9. Consideration and Possible Agreement to Request Funds and/or Fund Preparation of Scoping Document for the Delta Master Recreation Plan

Chairman McCarty said the Commission would consider, and possibly agree to fund, or seek funds to prepare a Scoping Document for later preparation of a Delta Master Recreation Plan.

Ms Aramburu said both the Commission and the Delta Ad Hoc Recreation Committee submitted comments to CALFED in the environmental review process. The comments both suggest the need for a master recreation plan in the Delta. This master plan would

then guide development of new recreation facilities associated with CALFED projects, and other sponsors. The Master Plan would build upon recent work and research carried out by the Commission the Department of Boating and Waterways, and the Department of Parks and Recreation. CALFED committed to funding preparation of a Delta master recreation plan in the final environmental document.

Representatives of the Commission, DBW and DPR met to discuss how to proceed with developing a budget for preparation of the Delta master plan. The recommendation was to retain a consultant to prepare a Scoping document. This Scoping document would develop a description of the product, develop a timeline and list of tasks, and a proposed budget which could then be used to request funds from CALFED and to solicit proposals from consultants. The other State agencies suggested the Commission is the appropriate body to coordinate preparation of the Delta master recreation plan and continue coordinating with the Delta Ad Hoc Recreation Committee.

Ms Aramburu talked to a couple of consultant firms that suggested preparation of the Scoping document would cost approximately \$20,000. There are two options available at this point: ask CALFED to retain a consultant to prepare a scoping document with oversight of the process directed to the Commission, or the Commission could fund preparation of the Scoping document out of surplus funds. The Commission's Budget and Finance Committee discussed this matter at its meeting on Monday and recommended that the matter should go to the full Commission for consideration. The Subcommittee did not take a position, but did note that if the Scoping was funded by the Commission, it could retain oversight of its preparation. If the Commission proceeds, the Commission could hire a consultant from Department of General Services' master services agreement--a quick and simple way to retain a consultant.

She asked for comments from the Commission about what approach to take regarding the funding, and comments on the proposed tasks that will result in preparation of the scoping document.

Ms Aramburu also reviewed the history of Citizen Advisory Committees for recreation issues. She said if the Commission were to proceed in an oversight role, the Commission should reconstitute a new Recreation Citizens Advisory Committee.

Commissioner Ferguson said Commission funding of the Scoping document would lend credence to the effort, and he said he understood that the Commission has the funds available to fund the Scoping effort. He moved that the Commission fund the Scoping document.

Commissioner Wilson asked if the funds are not expended would they be returned to the State; Ms Aramburu said yes.

Commissioner Thomson agreed with Commissioner Ferguson and seconded the motion.

Commissioner Macaulay asked if the funds were adequate; she said yes. He agreed it would be positive to have the Commission in charge of the Scoping document.

Commissioner Gleason said he agreed that if the matter were sent back to CALFED for funding it might be put on a back burner, and the Commission would lose credibility.

Commissioner Curry said the Department of Boating and Waterways funds go to the Commission each year, and said he believes that this expenditure would be appropriate. He noted that he had just returned from a two day meeting on State Water Project recreation projects and said there was a lot of interest in the Delta Recreation Master plan. He supports the idea of the Commission being the funding entity and providing oversight to ensure balanced participation by all the agencies on the Commission.

Chairman McCarty said the Budget Committee is projecting a savings in the budget which would allow the Scoping document to be prepared, that the funding level described is appropriate, and the Commission said they want to return to the three key land use areas: agriculture, wildfire habitat and recreation, and flesh out the policies in the Land Use Plan. He said this study would allow the Commission and the Delta community to proceed with that step. He agreed that would be an appropriate use of Commission funds.

Commissioner Thomson suggested staff move to reconstitute the Recreation Citizens Advisory Committee; that motion was acceptable to the maker of the motion. Ms Aramburu said if that is the Commission's desire, she would bring a new Committee to the Commission for approval at the next meeting.

Commissioner Brean suggested that the Commission communicate that the Commission will fund the Scoping document, but the Commission will be looking to CALFED to help fund preparation of the Delta Recreation Master Plan.

The motion was approved unanimously by voice vote.

Ms Aramburu said there have been some additional discussion among the State agencies regarding funding for implementing of the Recreation Master Plan, particularly as it relates to CALFED projects that are part of the State Water Project. She asked for comments on three ideas:

- 1) Department of Water Resources could seek a Budget Change Proposal for funds, and the implementation of the recreation facilities would be described in a new MOU which would broaden the agencies taking responsibility for planning, building and managing them to include DPC, and local governments.
- 2) Department of Parks and Recreation, could decide to take the lead for planning, building and managing new recreation facilities in the Delta.
- 3) A new non-profit group that could then solicit funds directly for planning, building and managing new recreation facilities in the Delta.

Chairman McCarty suggested that this approach be evaluated after the Scoping document is underway. Ms Aramburu said it would be important to think about ideas for funding implementation. Chairman McCarty suggested these ideas be discussed at the Citizens Advisory Committee.

Commissioner Brean said the issue should be addressed during the Scoping process, and said there are other ongoing processes that might address some of these matters.

10. Consideration and Possible Agreement to Become a Co-Sponsor of the Hog Island Delta Center, San Joaquin County

Chairman McCarty said the Commission would consider becoming a co-sponsor of a habitat enhancement, recreation, and education project sponsored by a non-profit group on a channel island in the Stockton Deep Water Ship Channel in San Joaquin County. He said he has been on the Island, and had discussed the project with Senator Johnston, and said he has been a supporter of the project since day one.

Ms Aramburu said the item has been placed on the agenda to allow the Commission to discuss and possibly act to take a position of support for a new project proposed for the Primary Zone of the Delta. The proposed project is the idea of some local citizens who own a small channel island and have used that island for many years for private recreation use and for nonprofit groups such as TLC (a school for homeless children in Stockton), Boy Scouts, and YMCA Indian Guides. The landowners have conceived a concept for a larger, permanent project for their site.

In addition, they would like to work with the two public landowners adjacent to the privately-owned island to create a multipurpose project. The two adjacent landowners are State Lands Commission, that owns the former riverbed, filled with dredged material when the Stockton Deep Water Ship Channel was created in the early 1930's. The second landowner is the Port of Stockton that has used a portion of Spud Island as a dredged material disposal site for maintenance of the Deep Water Ship Channel. This dredge spoil area has created a high area on the west end of the site that would be suitable for a building. Spud Island and Hog Island were both split in half when the Deep Water Ship Channel was dredged.

San Joaquin County had a day-use recreation facility on lands leased from the Port until the late 1980's. Although plans had been prepared to enlarge the facility, the County instead abandoned recreational facilities on the island due to the cost of maintaining the site. The County Planning Director has reviewed this conceptual plan and has indicated the project will need a use permit, but it is for a recreation use that is allowed in the agricultural zone. The island has not been used for agriculture since the Deep Water Ship Channel was dredged.

Ms Aramburu said the landowners have created a nonprofit group, retained a consultant to prepare a conceptual plan for the overall site, and have met with the adjacent landowners. The State Lands Commission staff has reviewed the proposed project. The Port staff has also reviewed the proposed project and is preparing a package to present to the Port Commission for their review.

Ms Aramburu said she reviewed the Conceptual plan at the request of Senator Patrick Johnston, and determined that the proposed project appeared to be consistent with the goals of the Delta Protection Act and the policies of the Land Use and Resource Management Plan for the Primary Zone of the Delta. In addition, recreational facilities accessible by boat are on the "wish list" of Delta boaters.

She said the project sponsors want to build a multi-purpose project which would include:

- day-use and some overnight recreation facilities accessible only by boat,
- wildlife enhancement and observation for passive recreation and education purposes, and
- a structure that could be used for educational and meeting purposes.

She noted the project proponents have applied for some planning grants and are interested in pursuing partnerships, funds, and support from various sources for this project. She said this is similar to the in-channel island protection and enhancement pilot project that the Commission voted to support, and actually funded some preliminary site work to allow the project to seek further funds from the CALFED program. The Commission would not take any direct responsibility for the proposed project, but would allow staff to participate in planning and coordination meetings with the project proponents, and would allow its conditional position of support to become part of the record on this project.

She said a Recommendation from the Commission's Plan was not included in the staff report. That recommendation states:

Undeveloped channel islands provide unique opportunities for permanent wildlife habitat in the Primary Zone. A strategy should be developed to encourage permanent protection and management of the channel islands. Protection may include: acquisition, conservation easements, or memoranda of understanding. Management may include: protection from erosion, controlling human access, or habitat management, such as planting native plants and removing exotic plants. Some larger, reclaimed channel islands may be suitable for mixed uses, such as recreation and habitat. Any development on channel islands must ensure long-term protection of the wildlife habitat.

Chairman McCarty asked if there were questions of staff.

Commissioner Gleason asked if there would be a financial commitment and if other agencies would also consider becoming co-sponsors; Ms Aramburu said the idea of co-sponsorship had been suggested by a consultant to San Joaquin County, the County might

take the same position. She said the idea was reviewed by Counsel, who said the Commission could take such a position, and reviewed by the Chair, who suggested the matter be agendaized for review by the full Commission.

Commissioner Curry said he had also visited the site and said Department of Boating and Waterways is interested in working with the nonprofit and government property owners and said their studies say boaters in the Delta want places to go and restrooms when they get there. He said the site could be a destination site for boaters, and a place for outings by families or groups.

Commissioner Coglianese asked the difference between being a co-sponsor and taking a position of support; Ms Aramburu said she does not think they are different and said if the word co-sponsor is inappropriate, a different word or phrase could be used or conditions could be used. She said she believes it implies a higher level of commitment and the Commission has no control over the project and is not a funding partner. She suggested using the term "support".

Commissioner Gleason said if staff participates in development of the project, the Commission will have input to the project through its staff. He said this is an opportunity for the Commission to have influence into the project.

Commissioner Glover asked if there would be fees charged for nonprofit group use of the site; Joe Cecchini said there are no specific plans at this time. He said the funds to develop the conceptual plan have come from the nonprofit board members. He said they are seeking support for the project in order to seek additional funds to refine the project, develop a business plan, and obtain approvals for construction. He said the nonprofit group welcomes co-sponsorship of the Commission.

Commissioner Brean said the project sounds like a good idea, but commented that islands are expensive and difficult to develop and operate. He said it sounds like the project is a preliminary level, and does not yet have a business plan.

Commissioner Glover said the project sounds like a good concept and suggested the nonprofit and the Commission could work together, and expressed his concern about liability if the Commission is a co-sponsor, and asked that the issue be addressed.

Mr. Siegel said he understands that the Commission could assume that co-sponsorship implies liability; and if the Commission wants to proceed, could clarify that their position does not imply any liability by the State in a written agreement with the project sponsors.

Commissioner Sanders asked if the Commission is a co-sponsor would the Commission become a co-applicant for permits. He asked that this and similar regulatory issues be explored before the Commission considers becoming a co-sponsor.

Commissioner Glover suggested the Commission adopt a position of support, but put off considering adopting co-sponsorship until more information and an agreement regarding release of liability is available.

Chairman McCarty said there appeared to be general support for the project, but there are questions about a position of co-sponsorship. That action would be accompanied by a draft written agreement.

Commissioner Wilson said he supports sponsorship.

Chairman McCarty asked if there were public comments; there were none.

Commissioner Brean moved the staff draft a letter, to be reviewed and approved by the Chair, a letter of support for the project concept, and the Commission would watch and participate in development of the concept in support of the Commission's mission, and anticipate that the project return to the Commission in the future for further support; the motion was seconded by Commissioner Gleason.

Commissioner Curry asked what type of action the Commission took regarding the Delta In-Channel Islands; Ms Aramburu said the Commission adopted a statement of support, and later funded preliminary environmental studies at key sites. She said the Commission and staff have acted as a co-sponsor as part of a project development team. She said the key element would be the interest of the Commission and the direction to staff to participate.

Commissioner Wilson asked for clarification that the Commission was not committing to fund the project and asked if the motion would allow staff to commit time to the project; Commissioner Brean agreed the Commission would not be funding the project, and said staff monitoring and commenting on the project would be in harmony with the Commission's Act and Plan.

The motion was approved unanimously by voice vote.

11. Election of Officers

Chairman McCarty opened the floor for nominations for Chairman for a two-year term.

Commissioner Thomson nominated Patrick McCarty; Commissioner Coglianese seconded the motion.

There were no additional nominations; the nominations were closed. The motion was approved by voice vote; Chairman McCarty abstained.

Chairman McCarty opened the floor for nominations for Vice Chair for a two-year term.

Commissioner Brean nominated Commissioner Curry. Commissioner Curry declined the nomination.

Commissioner Gleason nominated Commissioner Ferguson; Commissioner Wilson seconded the motion.

There were no additional nominations, the nominations were closed. The motion was approved unanimously by voice vote.

12. Adjourn.

The meeting was adjourned at 8:35 p.m.